

SECOND REGULAR SESSION  
[CORRECTED]  
[TRULY AGREED TO AND FINALLY PASSED]  
HOUSE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 659**  
**89TH GENERAL ASSEMBLY**  
1998

L2955.05T

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**AN ACT**

To repeal sections 43.150, 57.201, 57.220, 57.221 and 57.251, RSMo 1994, and section 57.250, RSMo Supp. 1997, relating to law enforcement officers, and to enact in lieu thereof seven new sections relating to the same subject.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 43.150, 57.201, 57.220, 57.221 and 57.251, RSMo 1994, and section 57.250, RSMo Supp. 1997, are repealed and seven new sections enacted in lieu thereof, to be known as sections 43.150, 57.015, 57.201, 57.220, 57.250, 57.251 and 57.275, to read as follows:

43.150. **1.** After a probation period of one year the members of the patrol shall be subject to removal, **reduction in rank or suspension of more than three days** only for cause after a formal charge has been filed in writing before or by the superintendent and upon a finding by a majority of a board of **[five] six** members **[appointed by the superintendent] randomly selected from troops or divisions other than that of the accused.** The board shall be composed of **[one captain, one lieutenant, one sergeant, one patrolman, and one other member of the patrol, of the same rank as the accused member, if there is a member of equivalent rank.] six unbiased members including one nonvoting captain, one sergeant and four members of the same rank as the accused member. The randomly selected captain shall serve as presiding officer at the hearing.** Within thirty days after the petition is filed, **unless the accused consents to an extension of time,** the board shall conduct a hearing and report to the

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

superintendent the finding by the majority of the board, whether the charges are true and [if sufficiently serious to warrant removal] **what discipline, if any, should be imposed.** All lawful rules, regulations, and orders of the superintendent shall be obeyed by the members of the patrol who shall be subject to dismissal as provided or to [such lighter punishment as] **one or more of the following:**

- (1) Suspension not to exceed thirty days[.];
- (2) Fine[.]; or
- (3) Reduction in rank[, forfeiture of pay or otherwise];

as the superintendent may adjudge. **Nothing in this section shall be construed to prevent nondisciplinary transfers of members if the superintendent determines that such transfers are for the good of the patrol. No hearings shall be required in the case of reprimands or suspensions of three days or less which may be imposed at the discretion of the superintendent.**

**2. Subject to the exceptions set forth in subsection 3, if a complaint is filed against a member, the member will be provided a copy of the complaint promptly after the complaint is filed by or received by the patrol. Unless the member consents in writing to an earlier time, the member will not be interrogated by the patrol or ordered to respond in writing in connection with the complaint until forty-eight hours after the member has received a copy of the complaint. The member will be entitled to reasonable opportunity to have counsel present during any interrogation related to the complaint. Prior to the superintendent or the patrol making an initial recommendation of discipline, the member shall be entitled to a copy of any investigation reports and any other written or recorded information or other evidence reviewed by the patrol which relates to the complaint; and the member will be afforded an opportunity to present a written response thereto.**

**3. Notwithstanding any provisions in the preceding subsection, the superintendent may postpone notifying the member that a complaint has been filed and may withhold the complaint and part or all of the investigation report and other evidence if the superintendent determines that such disclosures will seriously interfere with the investigation regarding that complaint or any other investigation being conducted by the patrol or will likely jeopardize the health or safety of any person. Nothing in this subsection shall be construed to limit the rights of parties to discovery in civil or criminal litigation.**

**57.015. As used in this chapter, the following words and terms shall have the following meaning:**

(1) "Deputy sheriff" or "officer", any deputy sheriff who is employed full-time by a law enforcement agency, authorized by this chapter and certified pursuant to chapter 590, RSMo. This term shall not include an officer serving in probationary status or one

**year, whichever is longer, upon initial employment. This term shall not include any deputy sheriff with the rank of lieutenant and above, or any chief deputies, under sheriffs and the command staff as defined by the sheriff's department policy and procedure manual;**

**(2) "Hearing", a closed meeting conducted by a hearing board appointed by the sheriff for the purpose of receiving evidence in order to determine the facts regarding the dismissal of a deputy sheriff. Witnesses to the event that triggered the dismissal may attend the hearing for the limited purpose of providing testimony; the attorney for the deputy dismissed may attend the hearing, but only to serve as an observer; the sheriff and his or her attorney may attend the hearing, but only to serve as an observer;**

**(3) "Hearing board", the individuals appointed by the sheriff for the purpose of receiving evidence in order to determine the facts regarding the dismissal of a deputy sheriff; and**

**(4) "Law enforcement agency", any county sheriff's office of this state that employs county law enforcement deputies authorized by this chapter and certified by chapter 590, RSMo.**

57.201. 1. The sheriff of all counties of the first class not having a charter form of government shall appoint such deputies, assistants and other employees as he deems necessary for the proper discharge of the duties of his office and may set their compensation within the limits of the allocations made for that purpose by the county commission. The compensation for the deputies, assistants and employees shall be paid in equal installments out of the county treasury in the same manner as other county employees are paid. **A policy and procedure manual shall be provided to all deputies, assistants and employees.**

2. The [deputies,] assistants and employees shall hold office at the pleasure of the sheriff.

**3. Deputies shall hold office pursuant to the provisions of sections 57.015 and 57.275.**

57.220. The sheriff, in a county of the second class, shall be entitled to such a number of deputies as a majority of the circuit judges of the circuit court shall deem necessary for the prompt and proper discharge of the duties of [his] **the sheriff's** office; provided, however, such number of deputies appointed by the sheriff shall not be less than one chief deputy sheriff and one additional deputy for each five thousand inhabitants of the county according to the last decennial census. Such deputies shall be appointed by the sheriff, but no appointment shall become effective until approved by a majority of the circuit judges of the circuit court of the county. A majority of the circuit judges of the circuit court, by agreement with the sheriff, shall fix the salaries of such deputies. A statement of the number of deputies allowed the sheriff, and their compensation, together with the approval of any appointment by such judges of the circuit court, shall be in writing and signed by them and filed by the sheriff with the county commission. **Deputies shall hold office pursuant to the provisions of sections 57.015 and 57.275.**

[57.221. Notwithstanding the provisions of section 57.220, or any other provision of law in conflict with the provisions of this section, no county which becomes a county of the second class after September 28, 1987, shall be required to appoint or compensate deputy sheriffs in the manner prescribed in section 57.220. In such counties sheriff's deputies shall continue to be appointed in the manner provided for counties of the third class.]

57.250. The sheriff in counties of the third and fourth classifications shall be entitled to such number of deputies and assistants, to be appointed by such official, with the approval of a majority of the circuit judges of the circuit court, as such judges shall deem necessary for the prompt and proper discharge of [his] **such sheriff's** duties relative to the enforcement of the criminal law of this state. Such judges of the circuit court, in their order permitting the sheriff to appoint deputies or assistants, shall fix the compensation of such deputies or assistants. The circuit judges shall annually review their order fixing the number and compensation of the deputies and assistants and in setting such number and compensation shall have due regard for the financial condition of the county. Each such order shall be entered of record and a certified copy thereof shall be filed in the office of the county clerk at least fifteen days prior to the date of the adoption of the county budget as prescribed by section 50.610, RSMo. The sheriff may at any time discharge any [deputy or] assistant and may regulate the time of such person's employment. [At the request of the sheriff, the presiding judge may order additional deputies in cases where exigent or emergency circumstances require the need for such additional deputies.]

**Deputies shall hold office pursuant to the provisions of sections 57.015 and 57.275. At the request of the sheriff, the presiding judge may order additional deputies in cases where exigent or emergency circumstances require the need for such additional deputies.**

57.251. 1. The sheriff of each county of the third and fourth classes shall appoint such deputies, assistants and other employees as [he] **the sheriff** deems necessary for the proper discharge of the duties of [his] office and may set their compensation within the limits of the allocations made for that purpose by the county commission. The compensation for the deputies, assistants and employees shall be paid in equal installments out of the county treasury in the same manner as other county employees are paid.

2. The [deputies,] assistants and employees shall hold office at the pleasure of the sheriff.

**3. Deputies shall hold office pursuant to the provisions of sections 57.015 and 57.275.**

[3.] **4.** The provisions of this section shall not become effective until the supreme court of the state of Missouri has issued an opinion, or until an opinion of a circuit court of the state of Missouri has become final, stating substantially that section 57.250 is invalid or unconstitutional in part or as a whole, and that a sheriff has no authority to appoint deputy sheriffs [under]

**pursuant to** such section. Once either of such events occurs, then this section shall become effective as of the date the opinion of the supreme court becomes effective or as of the date the opinion of the circuit court becomes final, as the case may be, or October 1, 1983, whichever occurs later.

**57.275. 1. Any full-time deputy sheriff upon dismissal shall be furnished with a written notice of the grounds for the dismissal. Upon receipt of the written grounds for the dismissal, the deputy sheriff may request a hearing. The request must be made to the sheriff, in writing, within three working days of receipt of the grounds for dismissal. Such hearing shall take place before the hearing board to be appointed by the sheriff. The sheriff shall schedule a closed hearing within a reasonable time but within thirty days after the written request was received by the sheriff. A written report of the facts determined during the hearing shall be forwarded to the sheriff. The sheriff will review the findings, and has the final decision-making authority. Any law enforcement agency shall be deemed to be in compliance with this section if the agency:**

- (1) Has published and distributed department policies and procedures which include provisions for dismissal of deputy sheriffs or other employees;**
- (2) Provides a deputy sheriff who has been dismissed, written notification of the grounds for the dismissal;**
- (3) Allows the officer to request and have a hearing; and**
- (4) Provides the officer with written results of such hearing.**

**2. The procedural requirements created pursuant to this section shall not be interpreted as creating any new substantive due process rights. Nothing in this chapter shall be interpreted as conferring or creating an employment status for deputy sheriffs other than at-will status and nothing in this chapter shall be interpreted as depriving any person of any rights which are conferred as a matter of employment, including post-employment benefits such as workers' compensation and unemployment compensation.**

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